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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,123	12/19/2001	Moise Gaspard	1400.1374880	2820
25697 7590 03/22/2010 ROSS D. SNYDER & ASSOCIATES, INC. PO BOX 164075 AUSTIN, TX 78716-4075				
EXAMINER TRAN, PHUC H				
ART UNIT 2471		PAPER NUMBER		
MAIL DATE 03/22/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/029,123

Applicant(s)

GASPARD ET AL.

Examiner

PHUC TRAN

Art Unit

2471

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1-34
Claim(s) objected to: 37 and 38
Claim(s) rejected: 35, 36, 39 and 40
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/PHUC TRAN/
Primary Examiner, Art Unit 2471

Continuation of 11, does NOT place the application in condition for allowance because: - With respect to Applicant's argument, Examiner respectfully disagrees"

"Regarding claims 35 and 37, as Applicant stated previously, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claims 35 and 37. For example, Applicant submits the cited portion of the cited reference fails to disclose "a database of managed network devices" as recited in claim 35. While the Examiner cites "(22 in Fig. 11 and Fig. 10 shows the DB manager 46)" as allegedly disclosing such feature, Applicant submits "22 in Fig. 11" is identified as a "MANAGEMENT SERVER," not "a database," and "DB manager 46" in "Fig. 10" is identified as a "DB manager," not "a database." Thus, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 35. Applicant notes the Examiner has not addressed such argument in the Examiner's Response to Arguments. Applicant respectfully requests consideration of such argument."

- Regarding to Applicant's argument above, Examiner respectfully disagrees. Examiner pointed out the "DB manager 46" that consider as the "database of managed network device". The "DB manager 46" links to "Queueing Manager 60" as database of the block 22.

"As another example, as Applicant stated previously, Applicant submits the cited portion of the cited reference fails to disclose "a database of logical links associated with said managed network devices" as recited in claim 35. While the Examiner cites "(25 in Fig. 11 with storing paths)" as allegedly disclosing such feature, Applicant sees no teaching in the cited portion of the cited reference as to "(25 in Fig. 11 with storing paths)" disclosing "a database of logical links associated with said managed network devices." Applicant notes the Examiner has not addressed such argument in the Examiner's Response to Arguments. Applicant respectfully requests consideration of such argument."

- Regarding to Applicant's argument above, Examiner respectfully disagrees. The "DB 25" defined in the specification at col. 9 lines 30-40; col. 10 lines 3-67.

"As a further example, as Applicant stated previously, Applicant submits the cited portion of the cited reference fails to disclose "a network communications system for sending messages to managed network devices and receiving messages from said managed network devices" as recited in claim 35. While the Examiner cites "(e.g. data collector 21 to send and receive message from NE 24)" as allegedly disclosing such feature, Applicant submits a mere allegation that "data collector 21 to send and receive message from NE 24" without any citation of such supposed teaching in the cited reference fails to establish a prima facie showing of anticipation. Applicant notes the Examiner has not addressed such argument in the Examiner's Response to Arguments. Applicant respectfully requests consideration of such argument."

- Regarding to Applicant's argument above, Examiner respectfully disagrees. In Fig. 2 shows links between data collector 21 and NE 24 that would be consider as sending and receiving.

"As yet another example, as Applicant stated previously, Applicant submits the cited portion of the cited reference fails to disclose "a message analysis system for determining local interface address information and next neighbor address information from messages received from said managed network devices" as recited in claim 35. Regarding such feature, the Examiner cites "(e.g. the server 22 analysis the paths)" of Robinson et al. However, Applicant can find no teaching of such feature with respect to "server 22" of the Robinson et al. reference. Applicant submits a mere allegation that "the server 22 analysis the paths" without any citation of such supposed teaching in the cited reference fails to establish a prima facie showing of anticipation. Applicant notes the Examiner has not addressed such argument in the Examiner's Response to Arguments. Applicant respectfully requests consideration of such argument."

- Regarding to Applicant's argument above, Examiner respectfully disagrees. See the specification for server 22 function. (col. 5, lines 40-55; col. 8 lines 28-65).

"Regarding claim 36, as Applicant stated previously, Applicant submits the cited portions of the cited reference fail to anticipate the subject matter of claim 36. For example, Applicant submits the cited portion of the cited reference fails to disclose "a logical link display for displaying said logical links" as recited in claim 36. Regarding such feature, the Examiner cites "(e.g. GUI 23 in Fig. 5)." However, Applicant can find no teaching of such feature in "GUI 23 in Fig. 5." Rather, element 23 of Fig. 5 is merely identified as "Client/User GUI." Applicant sees no teaching in that portion of the cited reference of, for example, "a logical link display for displaying said logical links." Applicant notes the Examiner has not addressed such argument in the Examiner's Response to Arguments. Applicant respectfully requests consideration of such argument. Therefore, Applicant submits claim 36 is in condition for allowance."

- Regarding to Applicant's argument above, Examiner respectfully disagrees. The specification discloses the GUI for allowing a user to trace routes and paths in the IP network and monitor routing performance (see Specification).